

# EXHIBIT 48



1           Q.     With that -- with that -- with that said,  
2     I just want to understand, did you coordinate with  
3     Zurich to gather documents responsive to Fluor's  
4     requests for information?

5           A.     In this litigation?

6           Q.     Yes.

7           A.     Yes.

8           Q.     Okay. Is it fair to say that you dictated  
9     to Zurich what Zurich should search for or otherwise  
10    obtain in response to Fluor's requests for  
11    documents?

12           MR. SAFER: Object to the form of the  
13    question.

14           THE WITNESS: Yeah, I don't know that I  
15    would use the word "dictated." That was another  
16    collaborative process.

17    BY MR. ROBERTS:

18           Q.     That's what I was getting at and that's  
19    what I'm trying to understand just in general terms.

20           Because that's what I understood from your  
21    declarations, that you and Zurich worked  
22    collaboratively to identify what documents may be  
23    responsive to Fluor's request for information; is  
24    that fair?

25           A.     Yes.

1 STATE OF CALIFORNIA )  
 ) ss.

2 COUNTY OF LOS ANGELES )  
3

4 I, Elizabeth Borrelli, Certified Shorthand  
5 Reporter, Certificate No. 7844, for the State of  
6 California, hereby certify:

7 I am the deposition officer that  
8 stenographically recorded the testimony in the  
9 foregoing deposition;

10 Prior to being examined the deponent was  
11 first duly sworn by me;

12 The foregoing transcript is a true record  
13 of the testimony given;

14 Before completion of the deposition,  
15 review of the transcript [ x] was [] was not  
16 requested. If requested, any changes made by the  
17 deponent (and provided to the reporter) during the  
18 period allowed are appended hereto.

19  
20 Dated: 1-22-2020

21   
22  
23

ELIZABETH BORRELLI, CSR 7844

1 Q. During your time on this matter where you  
2 were collaborating with Zurich to gather documents  
3 responsive to Fluor's requests in this case, did you  
4 ever become aware of a restricted network drive used  
5 by the environmental claims group?

6 A. I don't even know what that is so my  
7 answer is no.

8 Q. So you're not aware of any separate claims  
9 drive that Zurich maintains separate and apart from  
10 its normal claims files?

11 A. You mean like a computer drive?

12 Q. Yes.

13 A. No.

14 (Whereupon Exhibit 781 was marked for  
15 identification.)

16 THE REPORTER: Exhibit 781...

17 BY MR. ROBERTS:

18 Q. The court reporter has just handed you a  
19 document labeled Exhibit 781, I believe.

20 MR. ROBERTS: Correct?

21 THE REPORTER: (Inaudible response.)

22 BY MR. ROBERTS:

23 Q. And, Ms. Scharrer, I represent to you I  
24 know you're not copied on this, but what I'm  
25 interested in is the communication from Ms. Grounds

1 to Mr. Wilson by e-mail on or around -- well, it's a  
2 letter transmitted by e-mail on or around  
3 October 11, 2019.

4 Do you see that?

5 A. No. The -- are you talking about the top  
6 e-mail?

7 Q. No, I'm talking about the last couple  
8 pages of the exhibit.

9 A. Oh, okay. One second.

10 So not the e-mail, just the letter?

11 Q. Yeah, it's the letter on October 11, 2019.  
12 That's where I'm referring to right now.

13 If you look at the second paragraph, half  
14 the way down on page -- well, let's see. It doesn't  
15 look like it has a Bates label on it.

16 It starts "Zurich then investigated."

17 Do you see that?

18 A. I'm just finishing reading the letter.

19 Okay.

20 Q. Directing you to the second page of the  
21 letter where it starts "Zurich confirmed that this  
22 single page," do you see that?

23 [Reporter requests clarification.]

24 MR. ROBERTS: Where it says "Zurich  
25 confirmed that this single page."

1 BY MR. ROBERTS:

2 Q. Do you see that?

3 A. No. What does the paragraph start with?

4 Q. It starts with "Now" --

5 A. Oh, okay.

6 Q. -- "in response to."

7 A. Okay, the top paragraph on the last page  
8 of this --

9 Q. Sure.

10 A. -- exhibit, okay.

11 Q. About halfway through that paragraph, it  
12 says "Zurich confirmed that this single page was not  
13 included in the electronic claims file and, instead,  
14 was part of a larger electronic document created and  
15 maintained by Brad Rausa on a restricted shared  
16 network folder."

17 Do you see that sentence?

18 A. I do see that sentence.

19 Q. And then below, it has a footnote, and it  
20 says "Mr. Rausa's shared network is located on a  
21 restricted network drive used by the environmental  
22 claims group." That was the reference I was making  
23 to you earlier with my question regarding a  
24 restricted network drive used by the environmental  
25 claims group.

1           During your time collaborating with Zurich  
2   and gathering documents responsive to Fluor's  
3   request, were you aware of restrictive -- restricted  
4   network drive used by the environmental claims  
5   group?

6           MR. SAFER:   Objection.   Asked and  
7   answered.

8           [Reporter requests clarification.]

9           MR. SAFER:   Objection.   Asked and  
10   answered.

11          THE WITNESS:   You prefaced the question  
12   with what time period?

13   BY MR. ROBERTS:

14          Q.    During the time that you were  
15   collaborating with Zurich gathering documents.

16          A.    No.

17          Q.    Okay.

18          (Whereupon Exhibit 782 was marked for  
19   identification.)

20          THE REPORTER:   Exhibit 782...

21   BY MR. ROBERTS:

22          Q.    Ms. Scharrer, the court reporter has just  
23   handed you a document labeled Exhibit 782.   And I  
24   understand that you were no longer representing  
25   Zurich in this case at the time that this letter was



1           A.     Okay. I'll read it.

2           Q.     Ms. Scharrer, on the back page of the  
3 letter, starting with the paragraph "As accurately  
4 described in my correspondence," do you see that?

5           A.     Yes.

6           Q.     Ms. Grounds is communicating to Mr. Wilson  
7 that Zurich has now identified a "a source from  
8 which Zurich had not previously produced ESI," and  
9 I'll represent to you that they're, in this  
10 correspondence. Discussing the shared drive that I  
11 referenced in prior correspondence.

12                   And then further on down the letter, it  
13 talks about producing additional documents from this  
14 source.

15                   And, again, I just want to make clear,  
16 based upon your testimony, you weren't aware of any  
17 other additional sources of ESI information that  
18 could have been responsive to Fluor's requests for  
19 documentation, correct?

20           A.     Are you -- if you're referring to that  
21 restricted computer drive, that's correct.

22           Q.     Okay.

23                   (Whereupon Exhibit 783 was marked for  
24 identification.)

25                   THE REPORTER: Exhibit 783...

1 MR. ROBERTS: I'm just asking if she knows  
2 about it.

3 MR. MCCARTHY: Yeah, but you're asking for  
4 privileged communication from 2016.

5 MR. ROBERTS: Okay. I'll rephrase the  
6 question.

7 BY MR. ROBERTS:

8 Q. In and around -- as of -- as of  
9 October 5th through -- as of -- I'll say just that.

10 Wiping the slate clean, as of October 5th,  
11 were you aware of a restricted claim drive that the  
12 environmental claims department used that may  
13 contain materials responsive to Fluor's document  
14 request?

15 MR. SAFER: Asked and answered.

16 THE WITNESS: I have answered that  
17 question. My answer is the same. No.

18 MR. ROBERTS: Why don't we take a break  
19 for lunch and then we'll come back?

20 I think there's a cafe down in -- there  
21 might be a cafe at the bottom of the building.

22 THE REPORTER: We're still on.

23 THE VIDEOGRAPHER: Off video at 12:36 p.m.  
24 (Lunch taken.)

25 THE VIDEOGRAPHER: Back on video at